



1410-72-P

## **LIBRARY OF CONGRESS**

### **Copyright Royalty Board**

#### **Notice of Intent to Audit**

**[Docket No. 16-0007-CRB-AU]**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Public notice.

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**SUMMARY:** The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2012, 2013, and 2014 statements of account of DMX concerning the royalty payments its New Subscription Service made pursuant to two statutory licenses.

**FOR FURTHER INFORMATION CONTACT:** LaKeshia Keys, Program Specialist, by telephone at (202) 707-7658 or by email at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services and eligible nonsubscription services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382-84. As part of the

terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by eligible nonexempt noninteractive digital subscription services such as New Subscription Services and with distributing the royalties to the copyright owners and performers entitled to receive them. 37 CFR 383.4(a). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 383.4(a) and 382.15(c).

On December 23, 2015, SoundExchange filed with the Judges a notice of intent to audit DMX's New Subscription Service for the years 2012, 2013, and 2014.

Section 382.15(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notice of intent to audit.

Dated: January 19, 2016

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Suzanne M. Barnett,  
Chief Copyright Royalty Judge.

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